

REMARKS

Claims 27, 29-50 and 53-66 are currently pending with non having been allowed or indicated as allowable. The concurrently submitted Amendment enters appropriate corrections in response the minor claim objections and technical rejections under 35 U.S.C. § 112. Applicant has also carefully considered the rejections under 35 U.S.C. §§ 102 and 103 and entered amendments believed to very clearly place the application in condition for allowance. To further support the patentability, Applicant also submits a Declaration of Daris McCollough under 37 CFR § 1.132 establishing the very substantial commercial success of the present invention that every feature of Applicant's business model that distinguishes it from other auction management systems is claimed the present application. Accordingly, all of the commercial success is directly attributable to the claimed invention.

Claims 27, 29-31, 34-37, 47-52 and 53-56 stand rejected under 35 U.S.C. § 102 as being allegedly anticipated Rackson et al., U.S. Patent No. 5,823,935 ("Rackson"). Claims 31-33 stand rejected under 35 U.S.C. § 103 as allegedly unpatentable over Rackson in view of Robinson et al., U.S. Patent No. 6,415,270 ("Robinson"). Claims 38-43 and 59-63 are rejected under 35 U.S.C. § 103 as allegedly unpatentable over Rackson. Claims 44-46 and 66-66 are rejected under 35 U.S.C. § 103 as allegedly unpatentable over Rackson in view of Strickland et al., U.S. Patent No. 5,956,024 ("Strickland").

The present invention is an auction management system that provides the benefit of automatically posting, tracking, consolidating and displaying information pertaining to multiple items sold at auction. The key feature of the invention is a consolidated auction monitoring report that allows the user to easily view and ascertain the status of his or her auctions. The auction monitoring report also includes tracking fields for each record indicating whether post-sale activities including buyer notification, payment received and item shipped activities remain outstanding or have been completed. The auction monitoring report, which simultaneously displays auction records for different types of items sold at auction, fills an important need that is not satisfied by any of the references cited in the Office Action. Another aspect of the present invention provides auction users with the benefit of a system of reusable auction submission templates, image records, and text description records that the user

can select among to easily create auction submissions. Again, none of the cited references teach or suggest a system that satisfies this need.

Applicant was the first to ascertain that the needs described above would develop as the on-line auction industry began to develop and invested considerable risk capital into this venture. The prior art search conducted by the Examiner confirms that Applicant was the first to invent the consolidated auction monitoring report with the claimed features. That is, the Examiner has not cited any reference that address the same auction management problems solved by the present invention, but instead cites three patents that are directed to solving different problems. Specifically, Rackson is directed to a system for determining an optional price for an item that a user would like to purchase at auction, Robinson is directed to the use of encrypted digital receipts, and Strickland is directed to a graphical user interface ("GUI") for a customer service management system for cable television subscribers. The Office Action nonetheless maintains that Rackson anticipates many of the previously pending claims, including both independent claims 27 and 53, and further maintains that Rackson in combination with Robinson or Strickland render obvious the remaining claims. Applicant disagrees with this legal conclusion for the reasons explained in previous communications and reserves all rights to these contentions. But rather than rehashing the points of disagreement, Applicant has amended the independent claims to include recitations previously included in certain dependent claims, which are restated to more clearly distinguish the claimed invention from the prior art references cited in the Office Action.

Specifically, claims 27 and 53 have been amended to include the following:

for each auction request:

- determining that the associated auction has closed and resulted in a sale;
- updating the associated auction record in the auction monitoring report with information pertaining to the sale including the buyer and the purchase price;
- displaying tracking fields in association with the corresponding auction record in the auction monitoring report identifying post-sale activities to be conducted in connection with the sale including buyer notification, payment received, and item shipped;
- receiving indications that the post-sale activities have been completed; and
- altering the display of the tracking fields to indicate that the post-sale activities have been completed.

Because Rackson does not disclose an auction monitoring report including any tracking fields, and certainly does not disclose tracking fields for post-sale activity whose appearance change to indicate the status of the post-sale activities, this amendment removes the 35 U.S.C. § 102 basis of rejection. It should also be noted that Rackson does not disclose the following features recited in claim 27 and 53: (1) an auction monitoring report displaying records for items offered for sale at auction [figure 14 of Rackson, the only auction monitoring report shown in this reference, only shows an auction monitoring report for an item that the user would like to *purchase* an optimal price]; or (2) an auction monitoring report displaying records for multiple different types of items [figure 14 of Rackson shows auction parameters associated with determining an optimal price for a *single* type of item that the user would like to purchase].

With respect to the rejections under 35 U.S.C. § 103, the Office Action maintains that Strickland discloses "tracking fields" and that it would have been obvious to combine Strickland with Rackson to construct an auction monitoring substantially as recited in claims 27 and 53, as amended. That is, the Office Action rejected original dependent claims 44-46 and 64-66, which previously introduced the display of tracking fields in the auction monitoring report, on the basis this combination. This rejection is respectfully traversed for the reasons set forth below.

First, Strickland is not directed to the field of on-line auctions and does not disclose the display of any type of "consolidation report" containing records pertaining to different transactions. Rather, figure 1 of Strickland (the only disclosure cited in the rejection) shows a GUI that a telephone call center operator uses to provide customer service to cable television subscribers. See Strickland at 1/10-20, 3/3-53. Moreover, none of the icons or other fields in the GUI are properly described as "tracking fields" and none connote "*post-sale activities to be conducted in connection with the sale including buyer notification, payment received, and item shipped*" as recited in claims 27 and 53, as amended. Therefore, neither Strickland nor Rackson disclose or suggest this element of the claimed invention and, as such, cannot be combined to establish a *prima facie* case of obviousness. MPEP § 2143.03 (requiring that each and every element of the claim be disclosed or suggested in at least one of the references for an asserted combination to establish a *prima facie* case of obviousness).

Second, Strickland only discloses conventional GUI icons and other fields, and does not disclose or suggest any type of post-sale tracking fields that connote the status of the activities by *"altering the display of the tracking fields to indicate that the post-sale activities have been completed"* as recited in claims 27 and 53, as amended. Therefore, neither Strickland nor Rackson disclose or suggest this element of the claimed invention and, as such, cannot be combined to establish a *prima facie* case of obviousness. MPEP § 2143.03.

Third, neither Strickland nor Rackson disclose or suggest an auction monitoring report that displays records for *different types* of items offered for sale at auction. Rather, as noted previously, figure 14 of Rackson, which is the only auction monitoring report shown in this reference, only shows auction parameters associated with an *a single type of item* that the user would like to purchase at auction at an optimum price. In fact, there is no auction monitoring report of any description disclosed or suggested in connection with the seller flow chart of figure 4 of Rackson. That is, Rackson does not contemplate the need for an device to help a user manage and keep track of multiple items offered for sale through on-line auctions. It is again clear that neither Strickland nor Rackson disclose or suggest this element of the claimed invention and, as such, cannot be combined to establish a *prima facie* case of obviousness. MPEP § 2143.03.

Finally, the Declaration of Daris McCollough under 37 CFR § 1.132 establishes that Applicant has experienced significant commercial success, and that the present application claims every feature of Applicant's business model that distinguishes it from other auction management systems. Accordingly, all of the commercial success is directly attributable to the claimed invention. As the examiner is undoubtedly aware, this type of objective evidence of non-obviousness is often the best evidence of whether a claimed combination is obvious, must be taken into account during the examination of the application, and in most cases is the most probative and determinative issue on the question of obviousness. MPEP §§ 716.01(a) and 2141.

CONCLUSION

It is believed that the preceding amendment and remarks are completely responsive to the Office Action mailed April 4, 2005, and that the claims are in condition for allowance. If the Examiner believes that there are any issues that can be resolved by a telephone conference, or that there are any informalities that can be corrected by an Examiner's amendment, please call Mike Mehrman at (404) 497-7400.

Respectfully submitted,



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